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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,025	09/11/2003	Young Gul Yoon		5831
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Young Gul Yoon 108 Crescent St. Auburndale, MA 02466		EXAMINER SMALLEY, JAMES N		
		ART UNIT 3727	PAPER NUMBER	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,025

Applicant(s)

YOON, YOUNG GUL

Examiner

James N Smalley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the, "sunken-in starts gradually from the middle and gets deeper as reaching the side of the circle," as claimed in claim 10, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10 and 11 recite the limitation, "sunken-in starts." It is unclear what the metes and bounds of the limitation comprise. Further regarding claim 10, Examiner notes the claimed limitations conflict with the Specification, page 6, in the description of fig. 14. The Specification enables the semi-circular shaped

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compartment being, "sunken-in starts gradually from the outer area of circle and gets deeper as reaching the middle of the circle." The structure of the claimed limitation comprises the exact opposite gradient.

Claim 10 recites the limitation "the circle" in the last line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 12, from which claims 13-15 depend, recites the limitation, "said sauce compartment in a snug relationship with the pre-packaged sauce," which is read to be a positive recitation of the structure of the pre-packaged sauce. However, the preamble of the claim is drawn to the lid. It is unclear if the applicant intends to claim the combination.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 7, 9-10, 12, 15-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson US 5,722,558.

Thompson '558 teaches a drink lid with a condiment reservoir, comprising a container attachment portion (14), annular cover portion (12), opening to permit insertion of a straw (13), and sauce compartment (20). Examiner reads the three semi-circle-depression configuration of fig. 3 to be a "star shape."

Regarding the limitation, "where said annular cover panel portion is raised up to where bottom portion of the sauce compartment is horizontally parallel to the top of the container," Examiner notes the bottom surface of compartment (20) of Thomson '558 is parallel to the top surface of the container because both are horizontally flat.

6. Claims 1-3, 9, 12-13, 15-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Portman et al. US 6,464,099.

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Portman '099, in the embodiment of figs. 1A – 1D, teaches a drink lid with a condiment reservoir, comprising a container attachment portion (25), annular cover portion (Read by the Examiner to be the flat portions located immediately to the left and right of flat, vertical wall portions (26A), best seen in fig. 1A), opening to permit insertion of a straw (51), and sauce compartment (24A).

7. Claims 1, 3-4, 9, 12-13, 15-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dart et al. US Des. 323,196.

Dart '196 teaches a drink lid with a condiment reservoir, comprising a container attachment portion, annular cover portion, opening to permit insertion of a straw, and donut shaped sauce compartment.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US 5,722,558.

Thompson '558 does not teach a heart or "B" shaped sauce compartments. However, Examiner notes that Thompson '558 teaches varying the shape of the sauce compartment, disclosing a semi-circular compartment in fig. 1, a star or "clover" shape in fig. 3, and a rectangle in fig. 4.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compartments of Thompson '558, forming them to any shape such as a heart or "B" shape, motivated by the benefit of accommodating a like-shaped sauce packet, or to provide a novelty, decorative shape. Furthermore, applying a novelty shape to a sauce compartment is not held to be an unexpected result beyond routine experimentation. A change in form or shape is generally recognized as

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being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

10. Claims 8, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US 5,722,558.

Thompson '558 does not teach two straw openings.

Examiner takes Official Notice that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid of Thompson '558, providing two straw openings. One would be motivated to provide an additional port for a straw for use by a second drinker from the associated container.

Furthermore, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US 5,722,558 in view of Allan GB 2,205,309.

Examiner notes the claim stands rejected under 35 USC 112, 2nd paragraph, for claiming a structure which was not disclosed in the Specification or Drawings. The compartment of Thompson '558, in the embodiment of fig. 1, is semi-circular, and has a tapered sidewall that starts from the edge and gets deeper towards the middle. Should the limitations of the claim actually be reversed, this rejection will be applied to the limitations under 35 USC 102(b).

Thompson '558 teaches a semi-circular shape but does not disclose the sunken-in starts gradually from the middle and gets deeper as reaching the side of the circle.

Allan '309 teaches a compartment in a beverage lid, whereby a sunken-in starts gradually from the middle and gets deeper reaching the sides.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the floor of the semi-circular compartment in the lid of Thompson '558, providing it with

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the rounded profile of Allan '309, motivated by the benefit of providing a user varying depths of sauce within the compartment.

Furthermore, modifying the shape to a sauce compartment is not held to be an unexpected result beyond routine experimentation. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson US 5,722,558 in view of Kemp US 6,176,390.

Thompson '558 does not teach a circular shape whereby the sunken-in starts gradually from the edge of the circle, and gets deeper reaching the middle of the circle. However, Examiner notes that Thompson '558 teaches varying the shape of the sauce compartment, disclosing a semi-circular compartment in fig. 1, a star or "clover" shape in fig. 3, and a rectangle in fig. 4.

Kemp '390 teaches a circular compartment whereby the sidewall tapers downwardly and inwardly, such that it gets deeper reaching the middle of the circle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the compartment of Thompson '558, forming it to the shape of a circle, and providing the tapered wall, motivated by the benefit of accommodating a circular sauce packet.

Furthermore, modifying the shape to a sauce compartment is not held to be an unexpected result beyond routine experimentation. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 2004/0149755

US 4,183,444

US 6,427,864

US 4,074,827

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US 6,209,748

US 4,056,210

US 5,180,079

US 3,868,043

US 4,186,842

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N Smalley whose telephone number is (703) 605-4670. The examiner can normally be reached on M-Th 9-7:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns



Stephen K. Cronin
Primary Examiner